



BOARD OF DIRECTORS

President

Curtis A. Robertson
crobertson@weberolcese.com

Vice President

Robert Goodman
rgoodman@goodmanpoeszat.com

Secretary/Treasurer

Lori Frank
ljfrank@collectionlaw-firm.com

Directors

Michael H. R. Buckles
Government Affairs Director
mike@bucklesmg.com

Jennifer Dillow

jdillow@weltman.com

Andrea A Enright

aenright@shermeta.com

Shaun Fathallah

srfathallah@portfoliorecovery.com

Jason Sims

simsjr@jrsims.com

Executive Director

Scott J. Gaghan
gaghaniv@aol.com

P. O. Box 516
New Buffalo, MI 49117
Phone #888-653-7133
Fax#810-272-4316
www.mcbaonline.com

To: Senate Judiciary Committee
Re: Amendment to Senate Substitute HB 4064

November 5, 2013

Senate Substitute for HB 4064 should include specific language that makes it clear to that only the LEGISLATURE may establish fees for filing or access to court records.

The Michigan Creditors Bar Association respectfully suggests that Senate Substitute for HB 4064 be amended on line #4, to insert the following limitation language after "RULES": " PROVIDED, ONLY THE LEGISLATURE MAY ESTABLISH FEES FOR THE-FILING OR ACCESS OF COURT RECORDS."

Although the original version of this bill has been substantially redacted with the intent to remove the unconstitutional provision which authorized the Supreme Court to establish "reasonable fees" for e-filing and access to court records, the Senate Substitute still includes an overly broad provision authorizing the SCAO to "...establish and maintain records management policies and procedures for the courts...in accordance with Supreme Court rules." Although this language appears innocuous on its face, it would permit SCAO establish a "policy" permitting courts to charge fees for e-filing and access to court records provided they were permitted by "Supreme Court rules."

The Supreme Court has publicly indicated its intent to create court rules to establish and charge e-filing fees. It has issued several "rules" (Administrative Orders) authorizing e-filing fees for pilot project courts. Additionally, the Court recently proposed Michigan Court Rule 2E.001, which would establish "transaction fees" for e-filing. Accordingly, the Court could simply approve a rule establishing e-filing fees state wide. This bill, as currently written, would then permit SCAO to "establish" a "policy" permitting courts to charge e-filing fees and/or access fees for court records, since the fees would be "in accordance with Supreme Court rules."

Although it may not be the intent of the bill to permit SCAO to "establish" a "policy" permitting courts to charge e-filing fees, the current broad language could (and will) certainly be used by SCAO and the Court to justify doing exactly that! **Therefore, this bill should include specific language that makes it clear to that only the LEGISLATURE may establish fees for filing or access to court records.**

The proposed amended language preserves the checks and balances guaranteed by the Michigan Constitution. It insures that the Legislature retains its authority to establish e-filing and access fees.

Michigan citizens are entitled to a fair and transparent fee schedule that is set by the Legislature, not the Courts, especially since the fiscal records of the courts are not available for public inspection pursuant to rule MCR 8.119(G), which was recently approved by the Supreme Court in October, 2012.

Accordingly, MCBA respectfully suggests that Senate Substitute for HB 4064 be amended to include amended on line #4, to insert the following limitation language after "RULES": " PROVIDED, ONLY THE LEGISLATURE MAY ESTABLISH FEES FOR THE-FILING OR ACCESS OF COURT RECORDS."

Very Truly Yours,



Michael H.R. Buckles
Government Affairs Director